

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 21-79—sHB 5592

Veterans' Affairs Committee

AN ACT REDEFINING “VETERAN” AND ESTABLISHING A QUALIFYING REVIEW BOARD

SUMMARY: This act expands the general definition of “veteran” under state law to include those released with an other than honorable (OTH) discharge based on specified qualifying conditions (i.e., a diagnosis of post-traumatic stress disorder (PTSD) or traumatic brain injury or a disclosed military sexual trauma). It also adds to the list of qualifying conditions a determination that sexual orientation or gender identity or expression was more likely than not the primary reason for the OTH discharge.

The act applies the new definition across veterans benefit programs and, in doing so, extends state-based benefits to certain veterans who were previously ineligible. Under prior law’s general definition of veteran, an honorable discharge or discharge under honorable conditions was required, and only specific benefits were extended to individuals with an OTH discharge and a qualifying condition.

Additionally, for veterans who believe their OTH discharge is due to one of the new qualifying conditions, the act establishes a process for them to apply to a Qualifying Review Board to determine their eligibility.

The act also makes many conforming changes, including changes to agency reporting requirements (§§ 2 & 45) and provisions requiring veterans to submit their discharge papers (or other qualifying documents) as proof of their eligibility for veteran’s property tax exemptions (§§ 17 & 18).

Lastly, to conform to existing practice, the act changes the definition of “Healthcare Center,” which under the prior law is the Department of Veterans Affairs-maintained hospital in Rocky Hill. The act instead designates it as a long-term care facility (i.e., a facility federally certified as a skilled nursing facility or “intermediate care facility”).

EFFECTIVE DATE: October 1, 2021, and the property tax-related provisions are applicable to assessment years beginning on or after that date.

VETERANS BENEFITS AND PROGRAMS ELIGIBILITY

Under prior law, the general definition of “veteran” was any person honorably discharged, or released under honorable conditions, from active service in the U.S. Armed Forces. By law, unchanged by the act, the general definition applies to all statutes and benefits that reference veterans except those that specify otherwise. For certain benefits, prior law defined a veteran as anyone:

1. who met the general definition of veteran or anyone with an OTH discharge who has a qualifying condition (i.e., a diagnosis of PTSD or traumatic brain injury or a disclosed military sexual trauma) or

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2. discharged or released under conditions other than dishonorable from active service in the armed forces.

The act applies one general definition across the various benefit programs. Under the act, a “veteran” is anyone honorably discharged or released under honorable conditions from active duty in the armed forces or anyone with an OTH discharge based on the following qualifying conditions:

1. a PTSD or traumatic brain injury diagnosis by a licensed health care professional at a U.S. Department of Veterans Affairs (VA) facility;
2. a military sexual trauma experience disclosed to such a health care professional; and
3. a determination by the Qualifying Review Board that sexual orientation, gender identity, or gender expression was more likely than not the primary reason for the OTH discharge (see below) (see BACKGROUND).

In doing so, it extends eligibility for certain benefits that were previously unavailable to (1) any veteran with an OTH discharge, regardless of a qualifying condition or (2) veterans with an OTH discharge and one of the new qualifying conditions. The tables below group these benefits according to the veterans to whom the act extends them.

The act’s definition change also applies to other existing statutory provisions not listed in these tables that reference the general definition of veteran amended by the act. As under existing law, some of these benefits are limited to veterans with wartime service and some are also available to eligible surviving parents, spouses, or minor children.

Eligibility Extended to Veterans With a Qualifying Condition as Defined Under Prior Law

The act extends the benefits listed under the table below to veterans who have an OTH discharge that is based on a qualifying condition, as defined under existing law (i.e., a diagnosis of PTSD or traumatic brain injury or disclosed military sexual trauma) or added by the act (i.e., a determination that the OTH discharge was due to the veteran’s sexual orientation or gender identity or expression).

Under prior law, benefits listed under the table below were only available to veterans with an honorable discharge or released under honorable conditions.

Benefits Extended to Veterans With an OTH Discharge Based on a Qualifying Condition as Defined Under Prior Law

Act §	Description
<i>Benefits That Were Limited to Those Who Met the Previous General Definition of Veteran</i>	
13	Institutional aid for qualifying veterans without legal immigration status to attend a state public higher education institution (CGS § 10a-161d)
19	Qualifying employee for purposes of the job expansion tax credit program (which is obsolete) (CGS § 12-217pp)
32	Burial in state veterans’ cemetery (CGS § 27-122b)

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41	Credit for military service for retirement purposes for judges, family support magistrates, or compensation commissioners (CGS § 51-49h)
Act §	Description
<i>Benefits Previously Limited to Veterans With an "Other Than Dishonorable" Discharge</i>	
5	Police officer certification for eligible veterans with qualifying military training (provided the applicant passes the examination or evaluation) (CGS § 7-294d)
12	College credit at the state's public higher education institutions for enrolled veterans with military occupational specialty training (CGS § 10a-149d)
22	Motor vehicle license examination waivers for qualifying veterans (CGS § 14-36)
27	Exemption from training and testing requirements for emergency medical technician (EMT) licensure and certification for veterans with appropriate military training (CGS § 19a-179)
28	Exemption from written or practical exemption for EMT certification for qualified veterans (CGS § 20-206mm)
35	Security guard training waiver (CGS § 29-161q)
37	Inclusion in the labor department's clearinghouse for veterans and armed forces members with specialized training (CGS § 31-3zz)
40	Eligibility for military training evaluation that waives all or part of an apprenticeship program's requirements (CGS § 31-22u)
42-44	Eligibility for certain pretrial diversionary programs (CGS §§ 54-56e, -56i & -56l)

Eligibility Extended to Veterans With a Qualifying Condition Determination Based on Sexual Orientation, Gender Identity, or Gender Expression

The act extends the benefits under the table below to veterans with an OTH discharge that is based on one of the act's new qualifying conditions (i.e., a determination that the OTH discharge was more likely than not because of the veteran's sexual orientation, gender identity, or gender expression). Under prior law, these benefits were only available to veterans with (1) an OTH discharge and qualifying condition based on a diagnosis of PTSD or traumatic brain injury or a disclosed military sexual trauma or (2) an honorable discharge or release under honorable conditions.

Benefits Extended to Veterans With an OTH Discharge Based on a Qualifying Condition

Act §	Description
3	Price preference for certain Department of Administrative Services open market orders or contracts for veteran-owned micro-businesses (CGS § 4a-59)
4	Bonus points on state civil service examinations for original appointments (CGS § 5-224)

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Act §	Description
4	Special service credit for state employee retirement (CGS § 5-180)
4	Inclusion of time served in war in the length of state employment for veterans who were reinstated as state employees after returning from military service (CGS § 5-255)
6	Preference for certain state-funded moderate-income rental housing projects (CGS § 8-75)
7	Fee waiver for taking or retaking the examination for state high school diploma (CGS § 10-5)
8	Honorary high school diploma for veterans who withdrew from high school for military service in World War II, the Korean Hostilities, or during the Vietnam era (CGS § 10-221a)
9-11	Tuition waivers for the state's public colleges and universities (CGS §§ 10a-77, -99 & -105)
14	Basic veteran's property tax exemption (CGS § 12-81(19))
15	Property tax exemption for a veteran's surviving spouse or minor child (CGS § 12-81(22))
16	Property tax exemption for the sole surviving parent, spouse, or minor child of a veteran (CGS § 12-81(25))
20	Tax incentive to encourage certain veterans to start a farming business (CGS § 12-412(63))
21	Special veteran's license plates (CGS § 14-20b)
23	Veterans status on state driver's license or identity card (CGS § 14-36h)
24	Motor vehicle operator's license and registration fee waiver for one licensing period for qualifying veterans (CGS § 14-50)
25	Special license plates for qualifying disabled wartime veterans (CGS § 14-254)
26	Income disregard for federal Aid and Attendance pension benefits for purposes of specified means-tested public assistance programs (CGS § 17b-28i)
29	Admission to the Veterans Residential Services facility or Healthcare Center (CGS § 27-108)
30	Preference for admission into any hospital, upon the Veterans Affairs commissioner's request, at the state's expense unless other means of payment are available (CGS § 27-109)
31	\$1,800 toward funeral expenses or cremation for indigent veterans (CGS § 27-118)
33	Temporary financial assistance for qualifying wartime veterans at the commissioner's discretion (CGS § 27-125)
34	Temporary aid (such as food, clothing, and medical and surgical aid) from the Soldiers, Sailors and Marines Fund (CGS § 27-140)
36	Eligibility for specified employment and workforce development information from the Department of Labor (CGS § 31-3w)
38-39	Specified veterans' workforce development pilot programs in the workforce development board for the state's southwest region (CGS §§ 31-11ss & -

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Act §	Description
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QUALIFYING REVIEW BOARD

Purpose

The act requires the Veterans Affairs commissioner, by October 1, 2021, to establish a Qualifying Review Board as an executive branch board. Under the act, veterans who receive an OTH discharge and believe that it was based on their sexual orientation or gender identity or expression, may apply to this board for a review and recommendation to the commissioner for state-based veterans benefits approval.

Composition

The board is composed of five voting members, all of whom must be knowledgeable of veterans benefits and programs and have a demonstrated interest in veterans issues. The Veterans Affairs commissioner appoints four members, one of whom must be a member of the Department of Veterans Affairs Board of Trustees appointed in consultation with the board's chairperson. The remaining member is the department's Office of Advocacy and Assistance manager, or his or her designee. At least three of the members must be veterans. Members are not compensated for their service.

Terms

The initial appointments must be made by December 1, 2021. The initial members serve staggered terms: the Board of Trustees member and Office of Advocacy and Assistance manager, or the manager's designee, serve three-year terms and the remaining members serve two-year terms. The initial terms end on November 31, 2023, or 2024, as applicable, regardless of when the members are first appointed.

Subsequently appointed members serve four-year terms. Members hold office until a successor is appointed and may be reappointed. The Veterans Affairs commissioner must fill any vacancy for the balance of a member's unexpired term.

Meetings and Procedures

The commissioner must select the board's chairperson from among its members, who must schedule its first meeting by January 1, 2022. The board must meet at least monthly or as often as the chairperson deems necessary based on the number of pending applications.

A majority of board members constitutes a quorum for transacting any of the board's business.

Application Review Process

The commissioner must prepare standardized application forms for veterans seeking to apply for state benefits or filing a request for reconsideration, as described below. The application forms must (1) list the required documents necessary for filing and (2) be available on the department's website, along with filing instructions.

The act allows veterans requesting reconsideration to include with their applications documents supporting the claim that the discharge characterization was based on their sexual orientation or gender identity or expression.

The board must review each application and make a recommendation to the commissioner as to whether the veteran's sexual orientation or gender identity or expression was more likely than not the primary reason for the OTH discharge.

The board must review each application within 30 days after receiving it and make its written recommendation within 30 days after its review. The commissioner then has up to 10 days after receiving the board's recommendation to issue his written decision to approve or deny the application.

Appeals

Any veteran aggrieved by the commissioner's decision may (1) file a request for reconsideration with the commissioner within 15 days after receiving the decision and (2) include additional documents in support of his or her request. No later than 10 days after receiving the request, the commissioner must consider it and issue the department's final decision. A person aggrieved by the final decision may appeal under the Uniform Administrative Procedure Act (UAPA). (Generally, under the UAPA, aggrieved parties have 45 days to appeal final agency decisions to the Superior Court.)

BACKGROUND

Veterans Discharged Under "Don't Ask, Don't Tell"

Regardless of their discharge classification, veterans who were or would have been denied federal benefits solely based on their sexual orientation under any federal policy prohibiting homosexual personnel from serving in the military (e.g., "Don't Ask, Don't Tell") are eligible for state benefits if their federal benefits have been restored (CGS § 27-102q).